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S.2321

SECRET

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FROM:

Legislative Counsel
7D43

EXTENSION

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6121

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TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. Director

4/26 4/27

UNCL
b1p

Attached, recommended for your signature, is a revision of a report to Chairman Stennis on a bill which would place certain limitations on the offices of the DCI and DDCI, and require the President to authorize in writing every function or duty to be performed under Section 102(d)(5) of the 1947 Act (relating to intelligence affecting the national security). The revisions have been suggested by the Office of Management and Budget in consultation with the staff of the National Security Council.

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STATINTL

Attached for your information is the original report to OMB and OMB's specific suggestions have been noted thereon.

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George L. Cary
Legislative Counsel

Attachments

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

ER 74-3495

27 April 1974

Honorable John C. Stennis, Chairman
Committee on Armed Services
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your request for the recommendations of this Agency with respect to S. 2321, which places limitations on the offices of the Director of Central Intelligence and the Deputy Director of Central Intelligence and modifies the language of section 102(d)(5) of the National Security Act of 1947.

The first section of S. 2321 limits the incumbency in the office of Director of Central Intelligence to eight years or eight years from enactment for the incumbent then in office. Section 102(a) of the 1947 Act now prohibits the simultaneous incumbency of the positions of Director and Deputy Director by commissioned officers of the armed services. The legislative history of this provision of law reflects an interest that the Agency's foreign intelligence product be independent of all policy and departmental influences.

The Director of Central Intelligence must have the full faith of the President to serve effectively as the President's principal foreign intelligence adviser and to assure that objective foreign intelligence information is brought to bear on developing national security policy. I do not believe that a statutory limitation on the tenure in office for the Director of Central Intelligence is necessarily consistent with these fundamental objectives. The current law is well balanced, preserves the nonpolitical and nonpolicy nature of the position, permits the President necessary discretion in the exercise of his appointment power, and provides an opportunity for congressional participation under the advice and consent clause of the constitution.

The first section of S. 2321 also prohibits the simultaneous incumbency of the offices of the Director and Deputy Director by individuals who have been in the employ of the Agency within five years prior to appointment. Since the establishment of the Agency in 1947, three incumbents of these offices have had prior Agency employment, e.g., Mr. Dulles, who was Deputy Director from 23 August 1951 to 26 February 1953 and Director from 26 February 1953 to 29 November 1961; Mr. Helms, who was Deputy Director from 28 April 1965 to 30 June 1966 and Director from 30 June 1966 to 2 February 1973; and myself. In no case have the positions of Director or Deputy Director of Central Intelligence been occupied simultaneously by persons with prior Agency employment. CIA is not a policy oriented Agency, but does have specialized disciplines and distinctive management problems. It would appear that neither the President nor the Senate should be denied the opportunity of appointing and confirming those individuals who by training, dedication and experience may be best suited for the two top management positions in the Agency.

Section 2 of S. 2321 would require that the President specifically authorize in writing every specific function or duty authorized to be performed by the Agency "related to intelligence affecting the national security." Pursuant to current law (section 102(d)(5) of the National Security Act of 1947) this Agency performs such functions and duties "as the National Security Council may from time to time direct." The Agency undertakes no activity under the above quoted statutory provision except at the direction of the National Security Council, whose membership by statute includes the President of the United States, the Vice President and the Secretaries of State and Defense. We believe that this section would unnecessarily duplicate existing and acknowledged channels of responsibility, and therefore we recommend against its enactment.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. E. Colby

W. E. Colby
Director

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

Honorable John C. Stennis, Chairman
Committee on Armed Services
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for the recommendations of this Agency with respect to S. 2321, which places limitations on the offices of the Director of Central Intelligence and the Deputy Director of Central Intelligence and modifies the language of section 102(d)(5) of the National Security Act of 1947.

The first section of S. 2321 limits the incumbency in the office of Director of Central Intelligence to eight years or eight years from enactment for the incumbent then in office. Section 102(a) of the 1947 Act now prohibits the simultaneous incumbency of the positions of Director and Deputy Director by commissioned officers of the armed services. The legislative history of this provision of law reflects an interest that the Agency's foreign intelligence product be independent of all policy and departmental influences.

The Director of Central Intelligence must have the full faith of the President to serve effectively as the President's principal foreign intelligence adviser and to assure that objective foreign intelligence information is brought to bear on developing national security policy. I do not believe that a statutory limitation on the tenure in fixed term for the office of ~~for the~~ Director of Central Intelligence is necessarily consistent with these fundamental objectives. Also, the proposed eight-year term, being identical to the maximum term for the Presidency, suggests a political relevancy for the office, which does not and should not exist.

The It is believed that current law as it relates to the office of the Director of Central Intelligence is well balanced, preserving the non-political and non-policy nature of the position, while permitting

the President necessary discretion in the exercise of his appointment power and providing an opportunity for congressional participation under the advice and consent clause of the constitution.

The first section of S. 2321 also prohibits the simultaneous incumbency of the offices of the Director and Deputy Director by individuals who have been in the employ of the Agency within five years prior to appointment. Since the establishment of the Agency in 1947, three incumbents of these offices have had prior Agency employment, e.g., Mr. Dulles who was Deputy Director from 23 August 1951 to 26 February 1953 and Director from 26 February 1953 to 29 November 1961; Mr. Helms who was Deputy Director from 28 April 1965 to 30 June 1966 and Director from 30 June 1966 to 2 February 1973 and myself. In no case have the positions of Director or Deputy Director of Central Intelligence been occupied simultaneously by persons with prior Agency employment. CIA is not a policy oriented Agency, but does have specialized disciplines and distinctive management problems. It would appear that neither the President nor the Senate should be denied the opportunity of appointing and confirming those individuals who by training, dedication and experience may be best suited for the two top management positions in the Agency.

Section 2 of S. 2321 would require that the President specifically authorize in writing every specific function or duty authorized to be performed by the Agency "related to intelligence affecting the national security." Pursuant to current law (section 102(d)(5) of the National Security Act of 1947) this Agency performs such functions and duties "as the National Security Council may from time to time direct." The Agency undertakes no activity under the above quoted statutory provision except at the direction of the National Security Council, whose membership by statute includes the President of the United States, the Vice President and the Secretaries of State and Defense.) We defer to the National Security Council on the extent to which the proposed amendment possibly impinges upon the constitutional powers of the President.

(We believe that this section would unnecessarily duplicate existing and acknowledged channels of responsibility and therefore we recommend against its enactment.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

[REDACTED]
W. E. Colby
Director

STATINTL

OKC 74-0694

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

CIA

APR 12 1974

Honorable John C. Stennis
Chairman, Committee on
Armed Services
United States Senate
205 Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

This responds to your request for recommendations of the Office of Management and Budget with reference to S. 2321, a bill "To amend the National Security Act of 1947 to limit to eight years the time any person may serve as the Director of the Central Intelligence Agency, and for other purposes."

We agree with the views of the Central Intelligence Agency on S. 2321, which are being provided to you by that agency. CIA's response deals principally with the adverse effects that enactment of S. 2321 would have specifically upon that agency.

We would add, from the perspective of the overall management of the executive branch, our objections to the unusual and unwarranted provisions of Section 1. That section would (1) prohibit the simultaneous occupancy of the positions of Director and Deputy Director of Central Intelligence by individuals who have been in the employ of the Central Intelligence Agency for any period of time during the five-year period immediately preceding the time they are considered for appointment and (2) provide that no person may serve as Director for more than a total of eight years, except the incumbent at the time of enactment, whose limitation of eight years would begin to run on the date of enactment.

The first of these would restrict unduly the power of the President to nominate officers of the executive branch. In our view, its effect would be to deny improperly and unwisely to the President the opportunity to appoint individuals especially qualified by experience for those two important positions in the executive branch. The second provision, which would limit to eight years the time during which a person could hold the office of the Director of Central Intelligence, would without apparent justification impose a disability which might some day deny to the nation the continued service of the most qualified individual for the position of Director.

Accordingly, we recommend against favorable action on S. 2321.

Sincerely,

(signed) Wilfred H. Rommel

Wilfred H. Rommel
Assistant Director for
Legislative Reference